

1997 Ohio App. LEXIS 1398, \*

STATE OF OHIO, Plaintiff-Appellee v. WALTER R. MC GRAW, Defendant-Appellant

C.A. CASE No. 96-CA-1411

COURT OF APPEALS OF OHIO, SECOND APPELLATE DISTRICT, DARKE COUNTY

1997 Ohio App. LEXIS 1398

March 21, 1997, Rendered

**PRIOR HISTORY:** [\*1] T.C. CASE NO.11213/11225.

**DISPOSITION:** Affirmed.

### CASE SUMMARY

**PROCEDURAL POSTURE:** Defendant appealed a judgment of the trial court (Ohio), which convicted him, upon a guilty plea, of felonious assault and sentenced him to a term of imprisonment.

**OVERVIEW:** Defendant's plea of guilty to felonious assault was entered in exchange for the State's dismissal of other charges brought against him, after the trial court had overruled his motion to dismiss the charges for want of a speedy trial. Following defendant's conviction, he appealed the speedy trial issue. The court affirmed, finding that defendant had waived his right to appeal on the speedy trial issue by entering a guilty plea.


**OUTCOME:** The court affirmed the judgment of the trial court.


**CORE TERMS:** assignment of error, speedy trial, case number, motion to dismiss, felonious assault

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**HN1**  By entering a guilty plea, a defendant waives his right to challenge his conviction on speedy trial grounds. [More Like This Headnote](#)

**COUNSEL:** Jonathan P. Hein, Pros. Attorney, Richard M. Howell, Asst. Pros. Attorney, Courthouse, Greenville, Ohio 45331, Atty. Reg. No. 0002550, Attorney for

Plaintiff-Appellee.

**Paul Croushore**, 30 East Central Parkway, # 407, Cincinnati, Ohio 45202, Atty. Reg. No. 0055524, Attorney for Defendant-Appellant.

**JUDGES:** GRADY, J., WOLFF, J. and FAIN, J., concur.

**OPINIONBY:** GRADY

**OPINION: OPINION**

GRADY, J.

Walter McGraw was charged with Felonious Assault, case number 11213, and with Assault and Failure to Comply with an Order of a Police Officer, case number 11225. Prior to trial, McGraw moved to dismiss the charges for want of a speedy trial. The trial court overruled that motion. McGraw subsequently entered into a plea bargain with the State whereby McGraw pled guilty to the felonious assault charge in exchange for a dismissal of the charges in case number 11225. The trial court sentenced McGraw to a term of imprisonment in accordance with law. McGraw has timely appealed to this court.

ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED IN HOLDING THAT THE DEFENDANT WAS UNAVAILABLE FOR TRIAL FROM JULY 20, 1995 TO OCTOBER 26, 1995 BECAUSE OF HIS JAILING [\*2] IN ANOTHER COUNTY FOR ACTS CONNECTED WITH THE CHARGES IN THE PENDING INDICTMENT. (MOTION TO DISMISS; JUDGMENT ENTRY OF 5/23/96).

In his sole assignment of error McGraw challenges the trial court's decision overruling his motion to dismiss the charges against him for lack of a speedy trial. <sup>HNT</sup> By entering a guilty plea, however, McGraw waived his right to challenge his conviction on speedy trial grounds. [State v. Kelley \(1991\), 57 Ohio St. 3d 127, 566 N.E.2d 658](#); [Montpelier v. Greeno \(1986\), 25 Ohio St. 3d 170, 495 N.E.2d 581](#); [State v. Hall \(December 27, 1996\), 1996 Ohio App. LEXIS 5970](#), Montgomery App. No. 15437, unreported; [State v. Hurt \(May 3, 1996\), 1996 Ohio App. LEXIS 1757](#), Miami App. No. 95-CA-43.

The assignment of error is overruled. The judgment of the trial court will be affirmed.

WOLFF, J. and FAIN, J., concur.